

ALABAMA DEPARTMENT
OF ENVIRONMENTAL MANAGEMENT

IN THE MATTER OF
SLOSS INDUSTRIES CORPORATION
BIRMINGHAM, ALABAMA

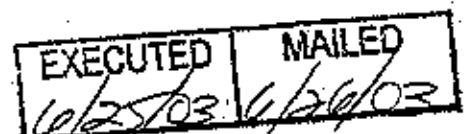
NPDES PERMIT NO. AL0003247

CONSENT ORDER NO. 03-140-CWP

CONSENT ORDER

Pursuant to the provisions of the Alabama Environmental Management Act, Code of Alabama (1975), §§ 22-22A-1 through 22-22A-16, as amended, and the Alabama Water Pollution Control Act, Code of Alabama (1975), §§ 22-22-1 through 22-22-14, as amended, and the National Pollutant Discharge Elimination System administered by the Alabama Department of Environmental Management (hereinafter "ADEM" or "the Department") and approved by the Administrator of the U.S. Environmental Protection Agency pursuant to the Federal Water Pollution Control Act, § 402, 33 U.S.C. § 1342, and without adjudication of any issues of fact or law, the Department and Sloss Industries Corporation have agreed to the Department's issuance of this Consent Order. The Department makes the following FINDINGS:

1. SLOSS INDUSTRIES CORPORATION (hereinafter, "Permittee") operates a facility for the manufacture of Specialty Organic Chemicals, Coke, and Mineral Fiber located in Birmingham, Alabama ("Birmingham Facility") and operates a facility for the manufacture of Specialty Organic Chemicals located in Arton, Alabama ("Arton Facility"). The Birmingham Facility generates and treats wastewater generated by its own operations and also receives and



treats wastewater from the Arlton Facility. In addition, the Birmingham Facility by agreement receives and treats wastewater from U.S. Pipe and Foundry Company, a Ductile Iron Pipe manufacturer.

2. The Permittee was issued National Pollutant Discharge Elimination Permit (hereinafter "NPDES Permit") #AL0003247 by the Department on September 29, 1993, which authorized the discharge of pollutants and industrial wastes to Five Mile Creek, a water of the State, subject to certain terms, limitations and conditions. Subsequent to issuance of the NPDES permit in 1993 it was modified by the Department on two occasions, January 31, 1994, and June 16, 1995. An application for re-issuance of NPDES Permit Number AL0003247 was submitted by the Permittee on April 3, 1998, and the Department is in the process of re-issuing the permit (hereinafter "pending permit" or "new permit").

3. The Department has issued the following Administrative or Consent Orders to the Permittee for violations of its NPDES Permit: Order Numbers 88-079-WP; 90-112-WP; 01-090-CWP; 02-214-CWP.

4. As a requirement of Consent Order # 02-214-CWP, the Permittee was required to submit an Engineering Report establishing a schedule for attaining compliance with the applicable NPDES permit and Agricultural and Industrial Water Quality Standards for Five Mile Creek. One of the major violations of the NPDES permit issued in 1993 that the Permittee has consistently been cited for is total cyanide at its DSN001 outfall. In accordance with Consent Order #02-214-CWP, the Permittee timely submitted its Engineering Report. On the basis of previous drafts of the pending permit, and conversations with ADEM, it was the Permittee's understanding that the new permit limit for cyanide at the DSN001 outfall will be based on available cyanide, not total cyanide as required by the 1993 permit. The Engineering Report

submitted by the Permittee thus did not address total cyanide, rather, the Engineering Report and subsequent meetings with Sloss indicated to the Department that Sloss proposed to attain compliance with the new permit limits for available cyanide, through a) minimization of external cyanide sources, b) reduction of cyanide through enhancements in coke process operations (i.e., waste minimization), and c) optimization of operations of the biological treatment facility.

5. On February 25, 2003, the Environmental Management Commission adopted a Fish and Wildlife (F&W) use classification for Five Mile Creek. In accordance with ADEM Admin. Rule 335-6-10-.05, the Permittee must attain compliance with the F&W classification within three (3) years from the date of adoption.

6. Consent Order # 02-214-CWP also required the Permittee to pay stipulated penalties for each and every violation of any daily maximum limitation and every monthly average limitation of the permit. Said penalties were to be paid within 30 days of the occurrence of the violation. The Permittee committed four violations of the daily maximum limitation for total cyanide in September, 2002, as reported in its October 25, 2002 discharge monitoring report. Payment of the stipulated penalties for these violations was received by the Department on November 22, 2002.

7. During the time period covered by Consent Order # 01-090-CWP, the Permittee committed 74 violations of its NPDES permit. Since the effective date of Consent Order # 02-214-CWP, the Permittee has committed 41 additional violations of its NPDES permit. Although the Permittee has made some progress in addressing the cause of the violations cited in those Consent Orders, violations have continued.

8. Since development of the Engineering Report, the Permittee has been engaged in on-going and extensive evaluations of the effectiveness of its operations, including the wastewater

treatment system, and has engaged in extensive evaluations of treatment alternatives to comply with the expected new permit limitations, which are substantially more restrictive than the 1993 permit. At this time, these evaluations have not been concluded but they indicate that actions in addition to or other than those set out in the Engineering Report are necessary to achieve compliance with A&I Water Quality Standards.

9. Although the Permittee does not agree with certain Findings presented in this Consent Order, it does agree, in the spirit of cooperation and with the desire to amicably resolve this matter with the Department, not to contest this Consent Order. In view of the aforementioned and its desire to comply with the provisions of the Alabama Water Pollution Control Act and its implementing regulations, the Permittee agrees to all the following terms of this Consent Order.

10. Likewise, the Department has agreed to the terms of this Consent Order in an effort to resolve the violations cited herein. The Department has determined that the terms contemplated in this Consent Order are in the best interests of the citizens of Alabama.

ORDER

Based upon the foregoing FINDINGS OF FACT and pursuant to Code of Alabama (1975), §§ 22-22A-5 and 22-22-9 as amended, and with the consent of the Permittee, it is hereby ORDERED:

A. That, not later than 30 days after execution of this Consent Order, the Permittee shall pay to the Department a civil penalty in the amount of \$675,000 for the violations cited herein. In addition, Sloss shall complete the Supplemental Environmental Project (hereinafter "SEP") which is attached hereto as Exhibit A. Sloss shall, within 30 days after the scheduled completion of the SEP, as approved by the Department, submit to the Department

invoices and other documentation demonstrating the amount of money spent on said SEP. Should Sloss not have incurred \$2,000,000 on the SEP in costs approved by the Department, Sloss shall, within 30 days after notification by the Department, submit the remainder of the amount of the SEP as determined by the Department. The value of any property interests transferred pursuant to the SEP by Sloss into the Conservation Land Trust, or similar entity, shall be included in the \$2,000,000 calculation.

B. That Sloss hereby agrees not to claim any funds expended in the performance of the SEP as a deductible business expense for purposes of Federal taxes. In addition, Sloss hereby agrees that, within thirty (30) days of the date it submits its Federal tax reports for the calendar year in which the above-identified SEP is completed, it will submit to ADEM certification that any funds expended in the performance of the SEP have not been deducted from Federal taxes.

C. That, immediately upon the execution of this Consent Order and up to the effective date of its new permit, the Permittee shall perform stream monitoring on a once every two weeks basis, except during unsafe weather and/or stream conditions. For the purpose of this paragraph, a week shall be defined as the period beginning at twelve midnight Saturday and ending at twelve midnight the following Saturday. Sampling stations will be in Five Mile Creek approximately 0.5 miles downstream of the discharge point and at the Highway 31 bridge over Five Mile Creek. Sample collection shall be made in the mid-channel and at mid-depth at each station location. Stream monitoring will not be required during weeks when the Permittee does not discharge effluent from DSN001. Parameters monitored shall be turbidity, total cyanide, available cyanide (as measured by EPA Method 01A-1677), water temperature, water depth and pH. Total and available cyanide shall be measured in mg/l. Records shall be maintained of

sampling times and dates at each station. Monitoring data shall be submitted on a monthly basis under the same requirements as those governing submission of Discharge Monitoring Reports (hereinafter "DMRs") as referenced in the permit. Upon issuance of the new permit, the monitoring and analysis requirements of that permit shall govern.

D. That, immediately upon the execution of this Consent Order and up to the effective date of its new permit, the Permittee shall perform monthly 24-Hr Acute Biomonitoring tests on the effluent from DSN001 using Fathead Minnows. Effluent used in the test shall be diluted to an Instream Waste Concentration of 79%. Any test indicating mortality greater than 10% shall constitute failure of the test and non-compliance with this Consent Order. Monitoring data shall be submitted on a monthly basis under the same requirements as those governing submission of DMRs as referenced in the permit. Upon issuance of the new permit, the monitoring and analysis requirements of that permit shall govern.

E. That, unless otherwise indicated herein, this Consent Order is in addition to, and does not supercede, any requirements, including payment of stipulated penalties except as modified by this paragraph, contained in Consent Order # 02-214-CWP. However, to clarify Paragraph D of Consent Order # 02-214-CWP, payment of stipulated penalties in accordance with Consent Order #02-241-CWP shall be submitted with the DMR upon which the violation is reported. In addition hereto, Consent Order #02-214-CWP is hereby modified to the extent that any violation of the existing permit limit at DSN001 for cyanide (i.e., total) or the future permit limit at DSN001 for cyanide (i.e., available) shall result in stipulated penalties in the amount of Twenty-Five Hundred Dollars (\$2,500.00) for each and every violation of any such daily maximum limitation of the applicable Permit and Five Thousand Dollars (\$5,000.00) for the violation of each and every such monthly average limitation of the applicable Permit.

F. The Permittee has indicated and the Department has agreed that, prior to its execution by the parties, this Consent Order shall be made available to the public for review and comment for 30 days.

G. Following a 30 day public notice and comment period and within 45 days of the execution of this Consent Order, the Permittee shall develop and submit to the Department for review and comment a Compliance Plan prepared by an Alabama Registered Professional Engineer. The Compliance Plan shall set forth actions and a schedule for achieving compliance with the effective (i.e., the permit in effect upon the date of submittal of the Compliance Plan) Permit (including, without limitation, all permit limitations, all monitoring requirements, all effluent toxicity requirements, and requirements for preparation and implementation of a best management practices plan), A&I Water Quality standards, and F&W Water Quality Standards, including those F&W Water Quality standards and permit limitations for which a three year compliance schedule has been given under the effective permit. The Compliance Plan shall provide for all necessary actions to be completed, and for compliance with the effective Permit and A&I Water Quality Standards to be achieved, on or before August 7, 2003; provided, however, that 1) with respect to those Permit requirements that are not effective until three (3) years from the adoption date of the F&W classification for Five Mile Creek, the Compliance Plan shall provide for all necessary actions to be completed to assess the treatment and/or operational control that will be required to achieve compliance with the Permit, on or before three (3) years from the adoption date of the F&W classification for Five Mile Creek; and 2) pursuant to Paragraph H. herein, the Permittee has requested and the Department has agreed to allow Sloss, on an interim basis, to comply with certain alternative effluent limitations for only those parameters as listed in Paragraph H, until December 1, 2003. Within 10 business days of

receipt of the Department's comments to the Compliance Plan, the Permittee shall submit in writing to the Department any objections to the Department's comments. The Department and the Permittee shall then have an additional 30 days from receipt of the objections to reach agreement on changes necessary for the Compliance Plan. If agreement cannot be reached on all issues, the Department shall provide a written statement of its position and the parties agree that such writing constitutes administrative action subject to the contest provisions of Ala. Code § 22-22A-7(c). In such event, the Permittee agrees to take action on all aspects of the Compliance Plan not so contested. Otherwise, the Permittee shall proceed with implementation of the Compliance Plan in accordance with the approved schedule and thereafter have implementation documentation available for the Department's on-site review. If the Permittee has not received comments from the Department within 30 days from the date of receipt of the Compliance Plan, the Permittee shall assume acceptance by the Department and shall proceed with implementation of the Compliance Plan in accordance with the approved schedule and thereafter have implementation documentation available for the Department's on-site review.

H. The parties anticipate and intend that the execution of this Consent Order occur at approximately the same time that the new permit is issued by the Department to the Permittee. On an interim basis, through and until December 1, 2003, and conditioned on the Permittee's augmentation of Five Mile Creek to maintain a minimum stream flow of 16.9 cubic feet per second ("cfs") at the point of discharge, except during those periods when the stream flow is below 7Q10 flow during which time the Permittee shall augment the stream flow with a maximum flow of 3 cfs as provided in the Operations Plan required by Paragraph I. of this Consent Order, the Permittee shall maintain compliance with the alternate effluent limitations for those parameters for DSN001 set forth in the chart below in lieu of the effluent limitations for

these parameters in either the existing or new permit pursuant to the schedule provided by this paragraph. The compliance schedule and effluent limitations provided by the effective Permit shall remain in effect for all other parameters at DSN001:

Parameter	Limits, mg/L
CBOD ₅ , Monthly Avg.	8.9
NH ₃ , Monthly Avg.	1.0
TKN, Monthly Avg.	4.0
CBOD ₅ , Daily Max	13.3
NH ₃ , Daily Max	1.5
TKN, Daily Max	6.0

I. Monitoring frequencies associated with the application of the alternative effluent limitations set forth in Paragraph H above shall be three times per week. For the purpose of this paragraph, a week shall be defined as the period beginning at twelve midnight Saturday and ending at twelve midnight the following Saturday. Monitoring data shall be submitted on a monthly basis under the same requirements as those governing submission of DMRs as referenced in the permit. During this interim time, compliance with the effluent limitations for the parameters set out in the previous paragraph shall be deemed full compliance for purposes of the stipulated penalties in Consent Order #02-214-CWP with respect to these parameters. Prior to the execution of this Consent Order the Permittee shall have submitted and the Permittee and the Department shall have agreed upon an Operations Plan that shall detail the installation and operational methods that the Permittee shall use to implement this provision. No later than upon execution of this Consent Order, the Permittee shall proceed with implementation of the Operations Plan in accordance with the approved schedule and thereafter

have implementation documentation available for the Department's on-site review during regular business hours. The approved Operations Plan shall be attached to the executed Order.

J. Within fourteen (14) business days after August 7, 2003, the Permittee shall submit to the Department written certification of full implementation of the actions identified in this Consent Order, and those actions identified by the Compliance Plan to have been completed by August 7, 2003. The written certification shall include a) a description of all of the actions which have been taken toward achieving compliance with this Consent Order, the effective Permit, A&I Water Quality Standards, and F&W Water Quality Standards, b) an assessment of the effectiveness of such actions in achieving compliance with this Consent Order, the effective Permit, A&I Water Quality Standards, and F&W Water Quality Standards, and c) an analysis of whether additional actions beyond the scope of this Consent Order are necessary to achieve compliance with the effective Permit, A&I Water Quality Standards, and F&W Water Quality Standards.

K. All documentation and reports required to be submitted under this Consent Order shall contain the following certification statement:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations

L. The reports and certification statement will be signed by a responsible official, or a duly authorized representative as specified by ADEM Admin. R. 335-6-6-.09(1).

M. Failure to comply with the requirements of this Consent Order, including, without limitation, the submittal and implementation of the Compliance Plan in accordance with Paragraph G above and all schedules established pursuant to the Compliance Plan, shall constitute a violation of this Consent Order, the Alabama Environmental Management Act and the Alabama Water Pollution Control Act and may subject the Permittee to additional civil penalties as provided in the Alabama Environmental Management Act and the Alabama Water Pollution Control Act.

N. That this Consent Order shall apply to and be binding upon both parties, their directors, officers, and all persons or entities acting under or for them. Each signatory to this Consent Order certifies that he or she is fully authorized by the party he or she represents to enter into the terms and conditions of this Consent Order, to execute the Consent Order on behalf of the party represented and to legally bind such party.

O. That, subject to the terms of these presents and subject to the provisions otherwise provided by statute, this Consent Order is intended to operate as a full resolution of past violations which are cited in this Consent Order.

P. That the Permittee is not relieved from any liability if it fails to comply with any provision of this Consent Order.

Q. That, for purposes of this Consent Order only, the Permittee agrees that the Department may properly bring an action to compel compliance with the terms and conditions contained herein in the Circuit Court for Montgomery County. The Permittee also agrees that in

any action brought by the Department to compel compliance with the terms of this Consent Order, the Permittee shall be limited to the defense of *Force Majeure*, compliance with this Consent Order, and physical impossibility.

R. That this Consent Order does not preclude the Department from taking other enforcement actions based on these facts regarding violations of other regulatory programs. Should additional facts and circumstances be discovered in the future concerning the Permittee which would constitute possible violations not addressed in this Consent Order, or if the violations noted herein continue, then such future violations shall be addressed in Orders as may be issued by the Department, litigation initiated by the Department, or such other enforcement action as may be appropriate, and the Permittee shall not object to such future orders, litigation, or enforcement action based on the issuance of this Consent Order.

S. That, by agreement of the parties, this Consent Order shall be considered final and effective upon the signature of all parties. This Consent Order shall not be appealable, and the Permittee does hereby waive any administrative hearing on the terms and conditions of same.

SLOSS INDUSTRIES CORPORATION

By: Charles C. Stewart

Its: PRESIDENT & COO

P.O. Box 5327
Birmingham, Alabama 35207

25 JUNE 2003
Date

ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT

James W. Warr
James W. Warr
Director

P.O. Box 310463
Montgomery, Alabama 36130-1463

25 JUNE 2003
Date

Sloss Industries Corporation
Birmingham, Alabama

Interim Five Mile Creek Flow Augmentation
Daily Operational Plan

June 18, 2003

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- A: Manual Flow Augmentation Calculation Form
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Acronyms

7Q10 Flow	The 7Q10 refers to the lowest consecutive 7 day stream flow that is likely to occur in a ten year period. It is used by many states and the federal government in setting discharge limits in National Pollutant Discharge Elimination System (NPDES) water quality permits.
ADEM	Alabama Department of Environmental Management
cfs	cubic feet per second
gpm	Gallons per minute

1. Introduction

Item H of Sloss Industries Corporation's (Sloss) draft Consent Order No 03- - CWP specified flow augmentation of Five Mile Creek to maintain a minimum stream flow of 16.9 cfs at the point of discharge, except during those periods when the stream flow is below the 7Q10 flow. When the flow declines to 16.9-cfs (or lower), Sloss shall augment the stream flow up to a maximum of 3.0-cfs as calculated in Section 2 of this plan. The flow augmentation is to occur on an interim basis through December 1, 2003.

The purpose of the augmentation flow is it to provide reareation enhancement of Five Mile Creek. During the summer months when the creek temperature is at it highest and flow level is low, the dissolved oxygen level in the water drops. The augmentation flow will help increase the dissolved oxygen content of the water as the creek approaches its lowest flow levels to ensure the health of the creek.

The source of the augmentation flow will be the industrial water from the Birmingham Water Works Board. This water has not been filtered and may periodically receive very low levels of chlorination (approximately 0.05 milligrams per liter).

The augmentation flow will be discharged into Five Mile creek through an existing pipeline that terminates at a decommissioned Sloss pump station located approximately 200 feet downstream of the Sloss outfall. Prior to use of the pipeline it will be thoroughly flushed to remove any existing scale and other debris. Flushing of the line will be completed in accordance with the Notice of Registration submitted to ADEM and in accordance with the Alabama Handbook for Erosion Control, Sediment Control and Stormwater Management on Construction Sites and Urban Areas.

For measurement of flow in Five Mile Creek, the Ketona, Alabama gage station (Station Number 02457000) (Ketona) maintained by the USGS will be utilized. The station is located approximately 2.3-miles upstream (as measured along the creek) of the Sloss effluent discharge point into the creek (DSN001). This gage station was originally put into service in 1953 by the USGS. Although it has had periods of inactivity since installation, it was refurbished and updated in May 1996 and has been providing reliable service to date. The station is recalibrate annually and field checked on a regular basis to verify proper operation. In general, the flow data provided by the station is accurate. Accuracy drops as the flow approaches and drops below the 7Q10 value of 4.6 cfs. Flow data adjustments are necessary as Five-Mile Creek has a sandy bed that is constantly changing. These adjustments are made during the annual calibration by the USGS.



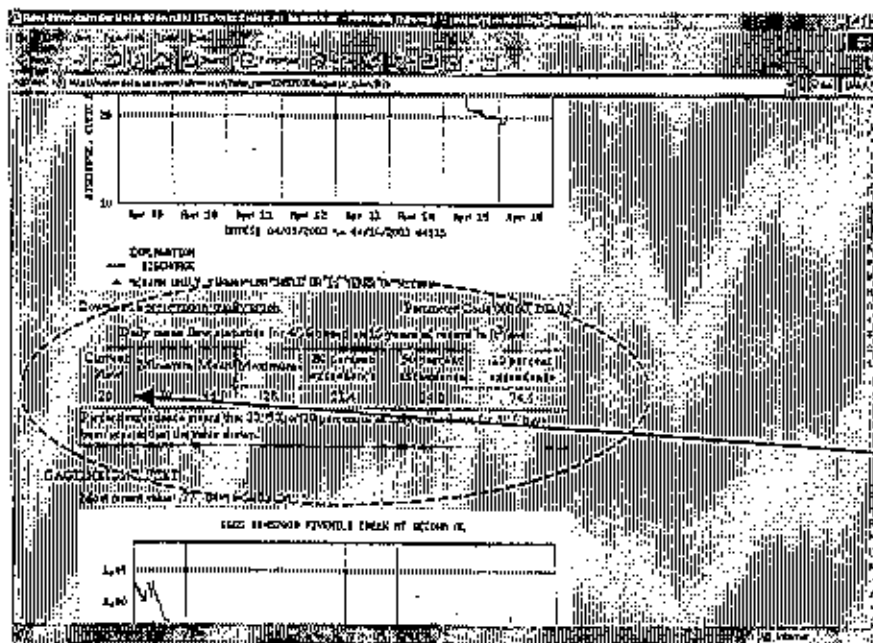
Five Mile Creek USGS Ketona Gage Station

2. Daily Operating Procedure

Listed below is the daily operating procedure to be followed for calculating the Five Mile Creek flow augmentation requirement:

1. Daily at approximately the same time a Sloss operator will check the USGS web site for the Ketona station to obtain the current flow at the station. The gage can be accessed at the following web site.

(http://waterdata.usgs.gov/al/nwis/uv/?site_no=02457000&agency_cd=USGS)



Current flow can be found in a table toward the bottom of the web page as shown here.

2. Using either the manual form in Appendix A or the MS Excel electronic version shown in Appendix B, a Sloss plant operator will record:
 - a. Today's date
 - b. The time the site was accessed
 - c. Operator's Name
 - d. Past 24 Hour Flow Augmentation Volume (gallons) as read from flow meter on the discharge line. This information will be reported with the monthly DMR.
 - e. Ketona Station Status (accessible and up to date)
 - f. Current Flow reading at Ketona
3. Calculating the volume (cfs) to augment Five Mile Creek
 - a) Base values that will be used to calculate flow augmentation requirements are from ADEM's most recent Five Mile Creek water Quality model. Values include:
 - i) Sloss flow into Five Mile Creek (DSN001) of 5.63 mgd (8.71 cfs).

- ii) ABC Coke flow into Five Mile Creek of 0.30 mgd (0.46 cfs).
- iii) The incremental flow increase between the Five Mile Creek Ketona gage station and the Sloss discharge point into Five Mile Creek of 0.158 cfs.
- iv) Five Mile Creek minimum flow at the point of Sloss' discharge into Five Mile Creek of 16.9 cfs.
- v) Five Mile Creek 7Q10 of 4.6 cfs at Ketona Gage Station.

b) Flow Augmentation Calculation ($Sloss_{FA}$)

$Sloss_{FA}$ =	Minimum Flow at Sloss Discharge Point	16.9 cfs
	- Sloss Flow	8.71 cfs
	- ABC Coke Flow	0.46 cfs
	- Incremental Flow Increase	0.158 cfs
	- Ketona Gage Station Current Flow	x.x cfs

Simplified (version is found on the spreadsheets):

$Sloss_{FA}$ - 7.6 cfs - Ketona Gage Station Current Flow (x.x cfs)

- (1) If Ketona Gage Station current flow is greater than 7.6 cfs then no flow augmentation is required.
 - (2) If Ketona Gage Station current flow is less than 7.6 cfs then flow augmentation is equal to the value $Sloss_{FA}$ calculated above.
 - (3) If Ketona Gage Station current flow is equal to or less than the 7Q10 flow of 4.6 cfs then the flow augmentation is required is 3.0 cfs.
4. Should on-line access to the flow data not be available, a plant operator will review the flow data from the previous three days to determine the trend.
- a) If the past three daily flow values in the creek have been below 7.6 cfs then flow augmentation will continue at the current rate.
For example: At the Ketona Gage Station, flows for the past three days were 6.7, 6.8 and 6.6-cfs, consecutively. The current augmentation flow is 1-cfs as calculated for $Sloss_{FA}$ above. This augmentation flow of 1-cfs will continue until on line access is restored.
 - b) If the flow for the past three days in the creek has been above 7.6 cfs then no water will be added.
 - c) If the flow in the creek over the past three days has varied above, below, or equal to 7.6 cfs, then flow will be added at a rate of 1.0 cfs, until on line access is restored.
 - d) A plant operator will check the web site every 6 hours to determine if access to the on-line station data has been restored and adjust the flow accordingly if access has been restored.
5. During the first day of use of flow augmentation, Sloss will sample the water discharging into the creek. Analysis will be conducted to determine the concentrations of Total Residual Chlorine, Total Recoverable Chromium, Total Recoverable Copper, Total Recoverable Lead, Total Recoverable Nickel, and Total Recoverable Zinc. This data will be submitted to ADEM within 30 days of sample collection.

Appendix A
Manual Flow Augmentation Calculation Form

Interim Five Mile Creek Augmentation Calculation Form

Step #

1.	Date	
2.	Time	
3.	Operator Name	
4.	Past 24 Hour Flow Augmentation Volume (gallons) as read from flow meter on discharge line. This information will be reported with the monthly DMR.	_____gal
5.	Is Ketona Gage Station Accessible and Up to Date (Circle One)? - If No proceed to Step 10. - If Yes Continue to Step 6. http://waterdata.usgs.gov/al/nwis/uv/?site_no=02457000&agency_cd=USGS	Yes / No
6.	Enter Current Flow at USGS Ketona Gage Station.	_____cfs
7.	Is flow at Ketona Gage Station Greater than 7.6 cfs (Circle One)? - If Yes, Flow Augmentation is not required. No further work required. - If No proceed to Step 8.	Yes / No
8.	Is flow at Ketona Gate Station less than or equal to 4.6 cfs (Circle One)? - If Yes Enter 3 cfs and proceed to Step 11. - If No proceed to step 9.	Yes / No _____cfs
9.	Is flow (from Step 6) at Ketona Gage Station between 7.6 and 4.6? Enter value from Step 6 and subtract from 7.6 (complete equation below and enter number to right) and Proceed to Step 11. $7.6 - \text{_____} = \text{_____}$ (Value from Step 6)	_____cfs
10.	On line access to flow was not available. Augmentation will be determined by reviewing previous two day flow as outlined below. • Enter Flow recorded from Ketona Gage Stations from three days ago _____cfs • Enter Flow recorded from Ketona Gage Station from two days ago _____cfs • Enter Flow recorded from Ketona Gage Station yesterday _____cfs. a. Are all three of the flows above 7.6 cfs? - If Yes, no flow augmentation is required. No Further work Required - If No, Proceed to b. below. b. Are all three of the flows below 7.6 cfs - If Yes, continue at current augmentation rate. Enter number to right. - If No, Proceed to c. below. c. Are some of the flows above, below, or equal to 7.6 cfs? - If Yes, flow augment at 1 cfs. Enter 1 cfs at right.	Yes / No Yes / No _____cfs Yes / No _____cfs
Check web site again in 6 hours to see if access has been restored. Update as required.		
11.	Convert cubic feet per second (cfs) to gallons per minute (gpm). Enter value from Step 8, 9 or 10 as applicable and multiply by 448.9. This is the gpm flow to Five Mile Creek to be augmented. Adjust valve flow accordingly. $\text{_____ cfs} \times (448.9 \text{ gpm/cfs}) = \text{_____}$ (Value from Step 8, 9 or 10)	_____gpm

Appendix B

Electronic Flow Augmentation Calculation Form Example

Apr-03

Operator Input Data					Actual Rain Collection		
Date	Time (enter in 24hr format ex: 09:00)	Operator Name	Total Flow Augmentation for Past 24 Hours as read from flow meter on discharge line. (gallons)	Ketona Gage Station On-Line. Up to Date and Accessible [Y/N]. If Not Complete "Off Line Spreadsheet"	Current Flow Reading At Station (cfs) if accessible.	Actual Rain Collection	Actual Rain Collection
1							
2							
3							
4							
5							
6							
7							
8							
9							
10							
11							
12							
13							
14							
15							
16							
17							
18							
19							
20							
21							
22							
23							
24							
25							
26							
27							
28							
29							
30							
31							
Total Flow Augmentation Volume for Month			0 gallons				

Sloss Supplemental Environmental Project

Preface

To satisfy the terms of the Consent Order between the Alabama Department of Environmental Management (ADEM) and Sloss Industries Corporation (Sloss), Sloss shall complete the Supplemental Environmental Projects (SEP) described below. Sloss will fully and faithfully perform all obligations and observe and fulfill all conditions with respect to the SEP. Based on the evaluation performed to date, the total value of the SEP and the implementation of the Master Plan as described below is estimated to be in excess of \$20 million. The documents supporting the final valuation will be made available upon completion of the valuation.

Project Descriptions

Sloss shall complete the following supplemental environmental projects (SEP), which the parties agree are intended to secure significant environmental protection and improvements. Not more than thirty (30) days after receiving a copy of the Consent Order signed by ADEM, Sloss agrees to initiate the SEP described below. The SEP consists of three components: 1) Five Mile Creek Greenway Master Plan; 2) Property Set-Aside Component; and 3) the Tree Planting Project. The SEP is more specifically described in the scope of work (hereinafter, the "Scope of Work"), attached hereto as Appendix A and incorporated herein by reference.

1. Five Mile Creek Greenway Master Plan (the "Plan"):

The Plan will be developed for a critical waterway corridor extending in excess of 8 miles in length from the Sloss's treated wastewater discharge point (near Tarrant City) to an area near the Jefferson County Five Mile Creek Wastewater Treatment Plant (WWTP) in Lower Coalburg. As described in the Scope of Work, the Plan will include an inventory of existing conditions (including stream and aquatic habitat surveys) and a site suitability analysis. Additionally, the Master Plan provides for the establishment of a Five Mile Creek Stakeholders Greenway Advisory Committee (GAC).

2. Property Set-Aside Component:

Sloss agrees to donate property to an approved Conservation Land Trust, consisting of approximately 360 acres of protected areas, called Greenway Properties. Approximately 326 acres of the property are located along selected portions of Five Mile Creek, located within the Black Warrior Basin watershed, as defined in Appendix A. The primary purpose of this project will be to reduce and/or prevent erosion and non-point source pollution loads from entering Five Mile Creek, by setting aside land in perpetuity for the protection of Five Mile Creek, such that Five Mile Creek may be maintained in, or be restored to, its natural condition.

In addition to the Greenway Properties along Five Mile Creek, Sloss will also donate approximately 34 acres adjacent to the Ruffner Mountain Nature Preserve (illustrated in Appendix A) to an approved Conservation Land Trust. Located approximately 6 miles east of the Sloss Project area, the Ruffner Mountain property is in the headwaters of the Shades Creek watershed, a tributary to the Cahaba River. Given the close proximity of the Ruffner Mountain property to the Five Mile Creek area, the same citizens--the residents of the City of Birmingham and Jefferson County-- will directly benefit from this land set aside and the accompanying water quality improvements and recreational opportunities. Considered a regional recreation and educational destination, Ruffner Mountain is a public facility, operated by the Ruffner Mountain Nature Coalition, Inc., a private non-profit corporation. The 2,000-acre Nature Reserve includes a Nature Center with educational exhibits, historic mining sites, a pavilion, and hiking trails. Adding 34 acres to the nature preserve will provide a substantial environmental benefit to the public.

Ruffner Mountain is considered a regional destination for hikers, bird watchers, and outdoor enthusiasts and a leader in nature education for students in the Birmingham area. Naturalist-related educational facilities in the Birmingham area are limited; the addition of this property will significantly enhance the Ruffner programs and provide a direct and significant positive impact on the public within the proximate Five Mile Creek basin, who routinely use the Ruffner facility. In addition, the Cahaba River system, of which this particular property is a part, is one of the critical river systems in Alabama. It is the longest free-flowing river in Alabama, and will greatly benefit by this set-aside. The protection of these 34 acres will contribute to the goal of the many environmental and public interest groups to restore and protect the quality of the Cahaba River. These two factors - the enhancement in the Ruffner Mountain Nature Preserve and the further protection of the Cahaba River watershed - clearly make the Ruffner properties an important part of the overall SEP.

Prior to transfer of the property, a Phase 1 Environmental Site Assessment (ESA), will be prepared in accordance with ASTM Standard E1527-00, *Standard Practice for Environmental Site Assessments; Phase I Environmental Site Assessment Process* will be performed on the selected parcels. If adverse environmental conditions are discovered by the ESA that either decreases the value of a given parcel from its original estimated value or renders that parcel a liability rather than an asset, Sloss shall have the option either to correct the environmental condition, or modify the parcels to this SEP so that the total value of the Greenway Properties remains at least three times the civil penalty contained in the Consent Order.

In addition, if, prior to transfer of the property, the total property value of all the Greenway Properties is appraised for less than three times the civil penalty contained in the Consent Order, Sloss shall have the option to modify the parcels to this SEP so that the total appraised value of the Greenway Properties remains at least three times the civil penalty contained in the Consent Order.

Prior to taking any such action as just described, Sloss will submit appropriate information to ADEM for its review.

3. Tree Planting Project:

Sloss commits to planting and maintaining 25,000 trees of a 60 percent to 40 percent pine-to-hardwood ratio along the Five Mile Creek watershed. Through the services of a Registered Professional Forester, Sloss commits to analyze the natural growth cycle of plant species along the watershed to select the most appropriate and beneficial locations for planting these trees in open spaces. Sloss will provide continued professional forestry services for four (4) years.

Services of Registered Professional Forester: Sloss commits to provide in-kind services of a Registered Professional Forester for purposes of effectuating the aforementioned components of the SEP. The Registered Forester, as provided by Sloss, will actively participate in all environmentally enhancing activities within the Five Mile Creek Sloss Project Area including, but not limited to, the development and implementation of best management practices, stormwater management activities, and implementation of riparian buffers. Additionally, the Registered Professional Forester will be responsible for implementing the Tree Planting Project as discussed above.

Five Mile Creek Greenway Advisory Committee (GAC)

Sloss shall serve to facilitate the formation of a Five Mile Creek GAC. The GAC will be composed of no more than 10 members, that includes no more than one representative from each of the following groups : ; Jefferson County; the Regional Planning Commission of Greater Birmingham (RPCGB); each of the cities along the Project Area, including Birmingham, Tarrant, and Fultondale; Environmental interest groups; Recreational interest groups; Property owners; Development interest groups; and, one at-large representative that is not included in the preceding groups. Sloss shall confirm the creation of the GAC and the appointment of the GAC members within sixty (60) days from the signing of the Consent Order by ADEM and within sixty (60) days after a GAC vacancy arises. The GAC shall meet at least quarterly at a time and place to be determined by the GAC.

As a facilitator, Sloss and/or its consultants will make available to the GAC facilities, logistical and administrative support. This support will include, but not be limited to, providing a meeting place for GAC meetings, providing a meeting place for any public meetings, assisting the GAC in advertising public meetings, providing mailings for notices and meeting agendas, preparation of meeting minutes, assisting the GAC with filling any vacancies in membership of the GAC during the duration of the SEP, providing technical information for the GAC to review, and making a facilitator available for public meetings held by the GAC.

The purpose of the GAC is to provide advice and to make recommendations to Sloss regarding the development, management, and implementation of the Five Mile Creek Greenway Master Plan, upon ADEM's approval of the Detailed Work Plan. The GAC will review and comment on the draft Greenway Master Plan. In addition, the GAC will host at least two advertised public meetings to solicit additional comments on the design of the Plan.

General Obligations

Sloss hereby agrees to implement this SEP for the purpose of reducing non-point source pollution and creating a continuous greenway along the Sloss Project Area of Five Mile Creek. These activities specifically include: 1) Five Mile Creek Greenway Master Plan which includes the establishment of a Five Mile Creek Stakeholder GAC; 2) Land Set-Aside Component which includes placing conservation easements on certain tracts of property, in perpetuity, and granting these easements to an approved Conservation Land Trust; and 3) the Tree Planting Project.

Sloss shall expend funds deposited into an independent account for the development, management, and implementation of the SEP. A draft of the documents establishing a SEP Account will be provided to ADEM for review and approval within thirty (30) days of the signing of the Consent Order by ADEM. All funds, and interest earned there from, deposited in the Account shall be expended to meet Sloss's obligations regarding the SEP. Sloss shall not invest or expend funds deposited into the Account for payment of any obligations other than those for the SEP. In itemizing its costs in the SEP completion report, Sloss shall clearly identify and provide acceptable documentation for all eligible SEP costs. Where the SEP completion report includes costs not eligible for SEP credit, those costs must be clearly identified as such. For purposes of this completion report, "acceptable documentation" includes invoices, purchase orders, or other documentation that specifically identifies and itemizes the individual costs of the goods and/or services for which payment is being made.

Within ninety (90) days of the signing of the Consent Order by ADEM, Sloss shall enter into a contract with one or more professional consultant(s) with expertise in the planning, acquisition, and management of natural resources-based greenway systems, to perform the following functions:

- Develop a draft and final Five Mile Creek Greenway Master Plan in accordance with the provisions and requirements contained in the Consent Decree.
- Submit the draft Greenway Master Plan to the GAC for review and comment. After consideration of the GAC comments, the Plan will be submitted for review and approval by ADEM no later than two (2) years after the approval of the SEP.
- Be responsible for addressing any deficiencies found by ADEM and resubmitting the Plan to ADEM within sixty (60) days.
- Provide a Registered Professional Forester to implement the Tree Planting Project and to track the progress of the plantings for four (4) years.
- Prepare semiannual reports for submission to ADEM that describe the progress in implementing the SEP, including an accounting of funds expended during the reporting period.
- Promote and coordinate the full participation of the GAC and the public in the development, management, and implementation of the Plan.
- Prepare and submit a SEP Completion Report to ADEM within 3 years of ADEM's signing of the Consent Order. The SEP Completion Report shall contain the following

information: a detailed description of the SEP as implemented; a description of any operating problems encountered and the solutions thereto; itemized costs; certification that the SEP has been fully implemented pursuant to the provisions of the Consent Order.

After receipt of the SEP Completion Report described above, ADEM will notify Sloss, in writing, regarding: 1) any deficiencies in the SEP Report itself along with a grant of an additional thirty (30) days for Sloss to correct any deficiencies; or 2) indicate that ADEM concludes that the project has been completed satisfactorily; or 3) determine that the project has not been completed satisfactorily.

If ADEM elects to exercise option (1) above--i.e., if the SEP Report is determined to be deficient but ADEM has not yet made a final determination about the adequacy of SEP completion itself--ADEM shall permit Sloss the opportunity to object in writing to the notification of deficiency given pursuant to this paragraph within ten (10) business days of receipt of such notification. ADEM and Sloss shall have an additional thirty (30) days from the receipt by ADEM of the notification of objection to reach agreement on changes necessary to the SEP Report. If agreement cannot be reached on any such issue within this thirty (30)-day period, ADEM shall provide a written statement of its decision on adequacy of the completion of the SEP to Sloss. If Sloss still does not agree with ADEM's decision, Sloss and ADEM agree to mediation of the dispute.

SEP Scope of Work

Five Mile Creek Greenway Master Plan

Master Plan Tasks

Task 1—Inventory of Existing Conditions

Five Mile Creek Watershed

The Plan will include readily available information for the entire Five Mile Creek watershed. The goal is to provide a baseline description of the watershed to assist in identifying other potential greenway segments in the future. Examples of the information to be included are as follows:

- Watershed delineation and description of hydrology
- Land use and land cover conditions
- Soil and geologic description
- Threatened and endangered (T&E) and other species
- Cultural and historic resources
- Linear planning features (transportation, utilities).
- Local recreation and educational facilities
- Water Withdrawals
- Permitted point and non-point discharge sources

Sloss Project Area

Stream assessments will be conducted in the spring and fall along the 8.5-mile segment between the Sloss Industries' outfall and the Five Mile Creek Waste Water Treatment Plant (WWTP). The stream assessments will also include at least one station upstream of the Sloss outfall and one representative reference station. The purpose of this assessment will be to evaluate water quality and to classify the stream banks and riparian areas. The habitat will be evaluated using Alabama Department of Environmental Management (ADEM) Standard Operating Protocols (SOPs) for habitat conditions (stream bank erosion, physical habitat, and riparian vegetation conditions). Observed water quality impairments will be noted and the stream channel will be classified using the Rosgen stream classification system.

A plan of study for the stream assessments will be submitted to ADEM for approval prior to conducting the assessment.

Task 2—Site Suitability Analysis for Sloss Project Area

The information collected in Task 1 will then be used to identify appropriate areas for multiple Greenway elements in the Sloss Project Area. These potential activities are described below.

Preservation Activities

Sites that promote the protection of sensitive habitat, wildlife corridors, and cultural resources will be identified and mapped. The sites will build upon the Land Set-Aside Component of this supplemental environmental project (SEP) and will attempt to provide additional greenway linkages along Five Mile Creek.

Restoration Activities

The impacts of historical urban growth and forestry activities have resulted in many areas that would benefit from restoration. The Tree Planting Project proposed as part of this SEP seeks to address some of these impacts; however, additional areas for stream bank and riparian restoration will be identified and mapped.

The Greenway Master Plan will provide a blueprint for addressing erosion and sedimentation control and the restoration of stream banks along the Greenway Properties. For the purposes of the Master Plan, the term "restoration" shall mean the planting of native flora and plants to act as natural buffers, the removal of structures and debris and the repair of stream banks impaired by erosion. Restoration projects that involve natural, nonstructural solutions shall have a high priority.

Water Quality Activities

Non-point source pollution is considered a major contributor to the degradation of water quality in Five Mile Creek due to its proximity to the City of Birmingham and the multiple transportation corridors transecting it. An overview of potential stormwater management practices that could be used in concert with the proposed greenway will be provided and specific recommendations for the Sloss Project Area will be identified.

Recreation Activities

Suitable corridors for multi-use trails and locations for picnic facilities, and other public access, within the Sloss Project Area will be identified and mapped. Limiting impact from non-point source pollution will be a primary consideration in locating potential recreation activity areas.

Task 3-Preparation of a Draft Master Plan

The Consultant will prepare a draft of the Five Mile Creek Greenway Master Plan that documents the following:

- Task 1-Inventory of Existing Conditions, including general information about the Five Mile Creek Watershed and site-specific information for the Sloss Project Area from the stream walks
- Task 2-Site Suitability Analysis for the Sloss Project Area, identifying potential areas for preservation, restoration, water quality, recreation, and educational activities
- Preliminary greenway configuration map and recommendations based on the results of Tasks 1 and 2
- Review of design standards for trails and bridges in the context of greenway design and protection
- Implementation strategies, including an overview of potential funding sources

- Formation of the Five Mile Creek Greenway Advisory Committee and its participation in the development, management, and implementation of the Draft Master Plan

Sloss will provide copies of the Draft Master Plan to the GAC members and to ADEM for review.

Task 4-Preparation of the Final Master Plan

The Consultant will revise the Draft Five Mile Creek Greenway Master Plan based on comments from the GAC and ADEM.

Task 5-Stakeholder Involvement

Sloss will facilitate the formation of the Five Mile Creek GAC as defined in the SEP. The GAC will meet quarterly over the life of the SEP. In addition, at least two public meetings and/or open house sessions will be held to educate and solicit feedback from the public regarding the creation of the Greenway Master Plan.

Task 6-SEP Completion Report

Sloss will prepare and submit a SEP Completion Report to ADEM within 3 years of the effective date of the Consent Decree. The SEP Completion Report shall contain the following information: a detailed description of the SEP as implemented; a description of any operating problems encountered and the solutions thereto; itemized costs; certification that the SEP has been fully implemented pursuant to the provisions of the Consent Order; and a description of the environmental and public health benefits resulting from implementation of the SEP (with a quantification of the benefits and pollutant reductions, if feasible).

Property Set-Aside Component

Sloss agrees to obtain and donate protected areas ("Greenway Properties"), along selected portions Five Mile Creek, as illustrated by Figure 1, to an approved Conservation Land Trust. The primary purpose of this project will be to reduce and/or prevent erosion and non-point source pollution loads from entering Five Mile Creek by setting aside land in perpetuity such that the Creek may be maintained in, or be restored to, its natural condition.

Sloss will provide certain tracts of land that include, but are not limited to, those tracts that are contiguous to Five Mile Creek for the purposes of donating title of these properties to an approved Conservation Land Trust for the perpetual use as a "greenway and riparian buffer." Additionally, Sloss is committed to placing conservation easements on certain tracts of property, in perpetuity, and granting these easements to an approved Conservation Land Trust.

Prior to transfer of the property, a Phase I Environmental Site Assessment (ESA), will be prepared in accordance with ASTM Standard E1527-00, Standard Practice for Environmental Site Assessments; Phase I Environmental Site Assessment Process will be performed on the selected parcels.

The individual tracts that Sloss will provide total approximately 360 acres, with 326 acres located in the Five Mile Creek Watershed, as listed below:

1. Up to 112 acres found within Section 33, Township 16S, Range 3, on the "North Birmingham" quadrangle map. This area is North of Five Mile Creek.
2. Up to 115 acres found within Section 33, Township 16, Range 3, on the "North Birmingham" quadrangle map.
3. Up to 70 acres found within Section 4, Township 17, Range 3, on the "North Birmingham" quadrangle map.
4. Up to 9 acres found within Section 5, Township 17S, Range 3W.
5. Up to 34 acres within Sections 7 and 18, Township 17S, Range 1W, on the "Irondale" quadrangle map. This property is not in the Five Mile Creek Watershed but is adjacent to the Ruffner Mountain Nature Center, as shown in Figure 2.
6. Up to 20 acres found in the E 1/2 of Section 33, Township 16S, Range 3W on the East side of and adjacent to Hooper City/Coalburg Road, on the "North Birmingham" quadrangle map.

The individual tracts Sloss is potentially considering for the conservation easements total approximately 0.75 mile in length, and includes those tracts listed below:

7. Found within Section 1, Township 17S, Range 3W, on the "North Birmingham" quadrangle map.
8. Found within Section 36, Township 16S, Range 3W, on the "North Birmingham" quadrangle map.

Tree Planting Project

Sloss commits to planting and maintaining 25,000 trees of a 60 percent to 40 percent pine-to-hardwood ratio along the Five Mile Creek watershed. Through the services of Registered Professional Forester, Sloss commits to analyze the natural growth cycle of plant species along the watershed to select the most appropriate and beneficial locations for planting these trees in open spaces. Sloss will provide continued profession forestry services for four (4) years.

Sloss commits to fund the hiring of a Registered Professional Forester for purposes of effectuating the aforementioned components of the SEP. The Registered Forester will actively participate in all environmentally enhancing activities within the Five Mile Creek watershed including, but not limited to, development and implementation of best management practices (BMPs), stormwater management activities, and implementation of riparian buffers. Additionally, the Registered Professional Forester will be responsible for carrying out the Tree Planting Project as discussed above.

APPENDIX B

SEP Schedule

The table below lists the primary tasks to be completed as part of the SEP and the estimated amount of time it should take to complete each task. These time estimates are measured from the date the Consent Order is signed by ADEM.

TABLE B-1
SEP Implementation Schedule

Task	Time Frame
Provide a draft of the documents establishing a SEP Account to ADEM for review and approval	30 days
Provide a detailed SEP work plan to ADEM for review	90 days
Provide plan of study for stream assessments to ADEM for review and approval	
Identify Land Trust that will be acquiring properties from Sloss	
Form the Five Mile Creek Greenway Advisory Committee (Task 5) (1)	
Survey and provide legal descriptions of all easements and properties to be donated in whole to a designated Conservation Land Trust	120 days
Submit semi-annual report to ADEM	
Registered Professional Forester—survey and assess Five Mile Creek watershed to determine the most beneficial and appropriate location for planting of the 25,000 trees committed by Sloss	180 days
Five Mile Creek Greenway Advisory Committee Meeting (Task 5) (2)	
Submit semi-annual progress report to ADEM	
Five Mile Creek Greenway Advisory Committee Meeting (Task 5) (3)	270 days
Complete Inventory of Existing Conditions (Task 1)	
Five Mile Creek Greenway Advisory Committee Meeting (Task 5) (4)	1 year
Conduct first Public Meeting (Task 5)	
Submit semi-annual progress report to ADEM	
Complete Site Suitability for Sloss Project Area (Task 2)	
Five Mile Creek Greenway Advisory Committee Meeting (Task 5) (5)	1 year, 90 days

TABLE B-1
SEP Implementation Schedule

Task	Time Frame
Five Mile Creek Greenway Advisory Committee Workshop (Task 5) (6)	1 year, 180 days
Execute transfer of property from Sloss, once acquired, to designated Conservation Land Trust	
Execute transfer of easements along Five Mile Creek watershed to designated Conservation Land Trust	
Complete draft Greenway Master Plan and present to GAC for review (Task 3)	
Submit semi-annual progress report to ADEM	
Five Mile Creek Greenway Advisory Committee Meeting (Task 5) (7)	1 year, 270 days
Provide Draft Greenway Master Plan to ADEM (Task 3)	2 years
Five Mile Creek Greenway Advisory Committee Meeting (Task 5) (8)	
Submit semi-annual progress report to ADEM	
Conduct second Public Meeting (Task 5)	
Provide Final Greenway Master Plan to ADEM and GAC (Task 4) (Providing for 30 days of review time by ADEM and 60 days to incorporate comments)	2 years, 90 days
Five Mile Creek Greenway Advisory Committee Meeting (Task 5) (9)	
Begin Tree Planting Project, dependent in part, on natural growth cycle of the trees to be planted	
Five Mile Creek Greenway Advisory Committee Meeting (Task 5) (10)	2 years, 180 days
Submit semi-annual progress report to ADEM	
Five Mile Creek Greenway Advisory Committee Meeting (Task 5) (11)	2 years, 270 days
Provide SEP Completion Report to ADEM (Task 6)	3 years
Five Mile Creek Greenway Advisory Committee Meeting (Task 5) (12)	

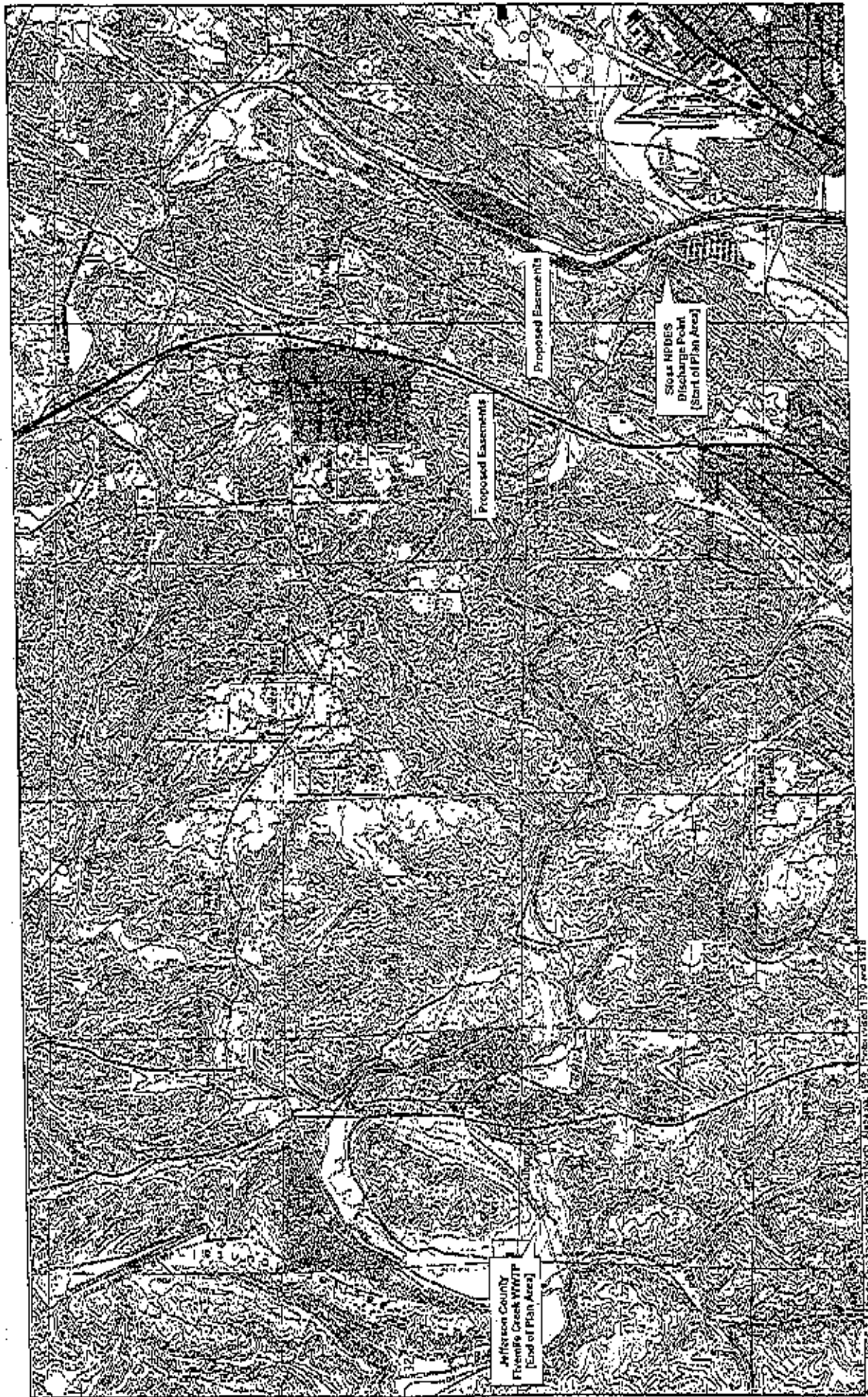


Figure 1
 Stos-Owned Lands Contiguous to Fivemile Creek for
 Proposed Fivemile Creek Greenway Master Plan

